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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 26th Day of May 1998

BEFORE

THE HON'BLE MR. JUSTICE CHANDRASHEKARAIHAH

WRIT PETITION NO.2461/1997

Between:

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1. Sri.P.D.Nayak,  
S/o.Late Pangal Sridhar Nayak,  
Aged about 72 years,  
by GPA holder.
  2. Smt.P.Usha Nayak,  
W/o.Sri.P.D.Nayak,  
Aged about 64 years,  
by GPA holder,  
Both residing at "Nandini",  
Kathriguppa Village,  
Poornapragna Nagar,  
Bangalore - 560 085.
  3. M/S.Skyline Constructions  
Pvt. Ltd.,  
having its office at Unit II,  
1st Floor, St.Patrick's  
Business Complex,  
Museum Road,  
Bangalore - 560 025,  
by its Director,  
Carmel Prabhu, major.
  4. M/s. Skyline Builders  
Pvt. Ltd.,  
having its office at  
Unit II, 1st Floor,  
St.Patrick's Business  
Complex, Museum Road,  
Bangalore - 560 025.  
by its Director,  
Carmel Prabhu, major.

5. Smt.Carmel Prabhu,  
W/o.Sri.Peter J.R.Prabhu,  
Aged about 45 years

6. Sri Peter J.R.Prabhu,  
S/o.Late H.P.P. Rodrigues,  
Major,

Petitioners 5 and 6 are  
Residing at No.78,  
Kalmane, Lavelle Road,  
Bangalore - 560 001.

7. M/S.Apollo Impex Pvt. Ltd.,  
having its office at Unit-II,  
1st Floor, St.Patrick's  
Business Complex,  
Museum Road,  
Bangalore - 560 025.  
by its Director Peter  
J.R.Prabhu, major.

8. M/S.Ajantha Sea Foods  
Pvt. Ltd.,  
having its office at  
Unit-II, 1st Floor,  
St.Patrick's Business  
Complex, Museum Road,  
Bangalore - 560 025.  
by its Director  
Peter J.R.Prabhu, major.

9. Smt.Kanaka V.Nayak,  
W/o.Late Vijaya Shankar  
Nayak, Aged about 45 years,  
Residing at "Nandini",  
Kathriguppa Village,  
Poornapragna Nagar,  
Bangalore - 560 085.  
by GPA holder  
Babtist D'Souza.

10. M/S.Winfield Enterprises  
Pvt. Ltd.,  
having its office at No.243/2,  
Borewell Road, Whitefield,  
Bangalore - 560 066.  
by its Director.

...PETITIONERS

(By M/S. Kumar & Kumar, Advs.)

And:

1. The Commissioner,  
Corporation of the  
City of Bangalore,  
N.R.Square,  
Bangalore - 560 002.
2. The Assistant Executive  
Engineer and Delegated  
Authority of Commissioner,  
Bangalore Mahanagara  
Palike, N.R.Square,  
Bangalore - 560 002.

...RESPONDENTS

(By Sri.Muniyappa, Adv.)

. . . . .

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India with a prayer to quash vide Annexure 'G' dt.16.12.96 and Annexure 'N' dt.30.12.1996 by R-2.

This Writ Petition coming on for Preliminary Hearing in 'B' Group this day, the Court made the following:-

#### O\_R\_D\_E\_R

The petitioners in this Writ Petition have challenged the order passed by the Corporation under Section 321(3) of the Karnataka Municipal Corporation Act. After going through the order of the Corporation, I find the Corporation has

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not specified what is the deviation in the construction from the <sup>approved</sup> ~~provided~~ plan. If that is so, the order cannot be said to be a speaking order. Therefore, in my opinion, the matter requires re-consideration. In the result, I pass the following order:

2. The Writ Petition is allowed. The order passed by the Corporation under Section 321(3) of the Karnataka Municipal Corporation Act produced as Annexure 'G' is quashed. The matter is remitted to the Corporation to consider the matter afresh after due notice to the petitioners.

Sd/-  
JUDGE



sps/\*